

DSL services purchased, used, or sold by a provider of Internet access, to provide Internet access, remain subject to Illinois telecommunications taxes. Illinois falls under the November 1, 2007, grandfather clause provided in the Internet Tax Nondiscrimination Act. See P.L. 108-435. (This is a GIL.)

June 30, 2006

Dear Xxxxx:

This letter is in response to your letter dated April 13, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

As you know, President Bush signed the Internet Tax Nondiscrimination Act of 2004 ('ITNA'), P.L. 108-435, on December 3, 2004. This Act reinstated, extended and expanded the moratorium on state and local taxes on Internet access by amending the existing Internet Tax Freedom Act ('ITFA'). The ITNA changed the definition of Internet access by including as part of Internet access, telecommunications services that are purchased, used, or sold by an Internet service provider ('ISP') to provide Internet access. Both traditional Internet access (e.g., access to the Internet cloud) and qualifying telecommunications services are now subject to the moratorium unless one of three grandfather provisions in the ITNA is applicable to these services.

The three grandfather provisions in the ITNA provide three different expiration dates for grandfathered taxes on Internet access depending upon when the tax on Internet access (including telecommunications services) was imposed and enforced by the taxing jurisdiction:

1. Pre-October 1998 Taxes - are grandfathered until November 1, 2007.¹
2. Pre-October 1991 State Telecommunications Service Taxes - are grandfathered until November 1, 2006.² State telecommunications service taxes include a state

tax enacted by October 1, 1991, imposed on telecommunications service, and 'applied to Internet access through administrative code or regulation issued on or after December 1, 2002.'³

3. Pre-November 2003 Taxes - are grandfathered until November 1, 2005.⁴

The questions we have with respect to Illinois are what grandfather date in the ITNA does the State of Illinois believes applies to it under the ITNA - the November 1, 2005, November 1, 2006 or November 1, 2007 date, and what telecommunications services does Illinois believe are subject to the modified definition of Internet access (e.g., DSL services only or a broader range of telecommunications services)?

If you have any questions regarding the foregoing or you need any additional information or clarification, please call me⁵. Thank you for your assistance in this matter.

DEPARTMENT'S RESPONSE:

DSL services purchased, used, or sold by a provider of Internet access, to provide Internet access, remain subject to Illinois telecommunications taxes. The Department has issued an Informational Bulletin stating that Illinois falls under the November 1, 2007, grandfather clause as provided in the Internet Tax Nondiscrimination Act. Please see the Department's Information Bulletin FY-2006-09. The Department's Informational Bulletins may be viewed on the Department's Internet website under the heading of "Forms/Publications."

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk

¹ Id. at §3(a)(2)(A).

² Id. at §3(a)(2)(B).

³ Id. at §3(a)(2)(B)(II).

⁴ Id. at §3(b)(2).